IN THE SUPREME COURT OF THE UNITED STATES

RECEIVED
JUN 4 - 1980
OFFICE OF THE CLERK
SUPREME COURT, U.S.

WILLIAM P. BESSER,

Petitioner,

v.

~~LOUIE L. WAINWRIGHT~~ Robert Graham, Governor of Florida

Respondent.

79-5710

Case No. ~~79-510~~

ORIGINAL COPY

IN THE MATTER OF: PETITION FOR WRIT OF CERTIORARI

~~MOTION TO~~ SUPPLEMENT THE ~~RECORD~~ Petition

Comes now Petitioner, WILLIAM P. BESSER, and moves this Honorable Court to grant an order permitting him to supplement the record as follows:

On the 3rd day of July 1979, Respondent Wainwright filed in the Record a sworn affidavit showing Petitioner's release date at December 9, 1981. (Exhibit A attached)

On or about the 3rd day of March 1980, Respondent Wainwright's agent sent Petitioner a notice that his release date was the 24th day of May, 1982. (Exhibit B attached)

Petitioner has not lost any gain-time but, to the contrary, has been awarded a total of 209 days "additional gain-time" since the Wainwright affidavit was submitted.

Gain-time reduces the actual period of incarceration prior to conditional release. Here however, as the record shows, the award of gain-time increases the period of imprisonment. the two positions are not compatible

Either the Wainwright affidavit (Exhibit A) is false, or Petitioner Besser should be discharged on Mandatory Conditional Release the 11th day of May, 1981, without any further additional gain-time being considered.

If Petitioner's claim is correct that Florida Statute Chapter 944.275 is Expost Facto as applied to him, then his original discharge date of February 7, 1981 would apply, minus the stated 209 days additional gain-time and his mandatory conditional release date, sans any further gain-time awards, would be fixed at July 9, 1980.

The Honorable Court should take Judicial Notice of the patently false affidavit of Respondent Louie L. Wainwright and expedite a ruling based on this supplement which lends immediacy to the above styled cause.

Respectfully submitted:

William P. Besser

William P. Besser

LOUIE L. WAINWRIGHT, SECRETARY

DEPARTMENT OF CORRECTIONS

1311 Winewood Boulevard • Tallahassee, Florida 32301 • Telephone: 904-488-3021

AFFIDAVIT

STATE OF FLORIDA)

COUNTY OF LEON)

Personally appeared before me this day Louie L. Wainwright, who being duly sworn, deposes and says:

That he is the Secretary of the Department of Corrections; that as such Secretary he is the official custodian of all prisoners and the records pertaining thereto;

That William P. Besser, #058568, received a 5-year sentence with credit for 72-days county jail time on January 13, 1977, for the offense of Attempted Burglary and a consecutive 2-year sentence on the same date for Possession of Burglary Tools from the Circuit Court of Pinellas County for a total sentence of 7-years with credit for 72-days county jail time;

That Mr. Besser's sentence has been computed under provision of Section 944.27 Florida Statute, (Repealed) until January 1, 1979, and the remainder of the sentence computed under provision of Section 944.275 Florida Statute, to arrive at a projected release date of December 9, 1981, calculated as follows:

Exhibit A

Sentenced 1/13/77	=	28137	(Days elapsed since 1900)
Sentence in days (7-years)	+	2555	
Jail Time Credit	-	72	
Statutory Gain Time earned prior to 1/1/79 on 789-days served	-	208	
Extra Gain Time earned prior to 1/1/79	-	97	
Statutory Gain Time earned or to be earned on 1074-days served or to be served from 1/1/79	-	387	
Projected release date 12/9/81	=	29928	

L. L. Wainwright

LOUIE L. WAINWRIGHT, SECRETARY
DEPARTMENT OF CORRECTIONS

Sworn to and subscribed before me this the 3rd day of July, A.D., 1979.

Gloria C. Henderson
Notary Public

Notary Public, State of Florida at Large
My Commission Expires Aug. 22, 1982
Bonded By American Fire & Casualty Company

RECEIVED MARCH 1980
THROUGH INSTITUTIONAL MAIL ROOM

NAME Berger, William NO 058528 Box # 651

YOUR CURRENT RELEASE DATE (CRD) COMPUTED UNDER THE NEW GAIN TIME LAW IS 5-24-82
THE LAST POSTING OF GAIN TIME OR LOSS OF GAIN TIME ON YOUR SENTENCE WAS 1-1-79

NOTE: (A) BOTH EXHIBITS (A + B) SHOW SAME 1-1-79 DATE
(B) LAW LIBRARY DOES NOT HAVE THE REQUIRED COPY MACHINE
(C) EDUCATIONAL DEPT REFUSES COPIES TO INDIGENTS
(D) ABOVE NOTICE OF RELEASE DATE IS COPIED EXACTLY

William P. Berger